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OFFICE OF PETITIONS

In re Patent No. 7,091,309 :
Brown, et al. : DECISION REGARDING
Issue Date: August 15, 2006 : PATENT TERM ADJUSTMENT
Application No. 10/708,026 : AND
Filed: February 3, 2004 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. 713629.NEW : CERTIFICATE OF CORRECTION

This letter is in response to the "PETITION UNDER 37 CFR 1.705(d) REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 8, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The petition is GRANTED.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred ninety-five (195) days.

On August 15, 2006, the above-identified application matured into U.S. Patent No. 7,091,309. The patent issued with a Patent Term Adjustment of one hundred four (104) days. Patentees state that they were erroneously assessed applicant delay of ninety-one (91) days for filing the issue fee on June 29, 2006.

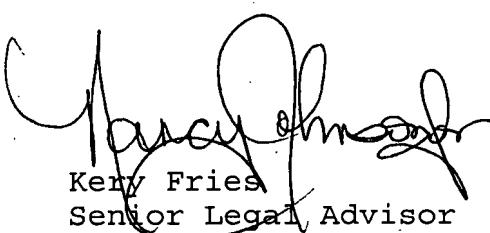
The ninety-one (91) days of applicant delay assessed for the payment of the issue fee on June 29, 2006 is incorrect. A review of the file confirms that applicants did not file the issue fee on that date, but rather on March 27, 2006. A review of Office finance records reveals that Applicants' deposit account contained sufficient funds to charge the issue fee on that day. Accordingly, zero (0) days of applicant delay should have been assessed for the timely filing of the issue fee.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate.

Receipt of the \$200 fee under 37 CFR §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-five (195) days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.


Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,091,309 B2
DATED : August 15, 2006
INVENTOR(S) : Brown, et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (104) days

Delete the phrase "by 104 days" and insert — by 195 days—